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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,070	03/13/2001	Malcolm Jefferson	295PIUS	9094
<div>7590 Harold V Stotland Seyfarth Shaw Stc 4200 55 East Monroe St Chicago, IL 60603-5803</div>				
05/12/2008				
EXAMINER				
MCPARTLIN, SARAH BURNHAM				
ART UNIT		PAPER NUMBER		
3636				
MAIL DATE		DELIVERY MODE		
05/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/804,070

Applicant(s)

JEFFERSON ET AL.

Examiner

Sarah B. McPartlin

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 15, 17-21, 23, 24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 9, 10, 15, 17-19, 23, 24 and 26 is/are rejected.
- 7) ☒ Claim(s) 2-8, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 9-10, 15, 23-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reminger (4,305,532) in view of Berger (3,902,737). With respect to claims 1 and 23, Reminger discloses a child carrier attachment for a bicycle, comprising a support device (22) and a child's seat (32) mounted on said support device (22), said support device (22) comprising an elongate support (22) defining a longitudinally extending channel (unlabeled), see Figure 7, said channel positionable above and facing a top tube (46) of said bicycle when said bicycle is a male-style bicycle; a rear fastener (64) on said support (22) for gripping engagement with a saddle post (unlabeled) of the bicycle to secure said support device (22) to said saddle post; and a front fastener (26) for gripping engagement with a steering post (44) of said bicycle, said support device (22) being adjustable, by way of telescoping member (24) which carries rear fastener (64), to vary the spacing of said front (26) and rear (64) clamping devices. The seat (32) has foot rests (36) which straddle the elongate support (22). The elongate support (22) has a pair of elongate support members (22) and (24) which are mutually longitudinally adjustable to vary the spacing of said front and rear clamping devices.

With respect to claim 15, a child seat (32) including footrests (36) is mounted on said support, said footrests (36) straddling said support.

Reminger discloses all claimed elements with the exception of front and rear fasteners in the form of adjustable clamping devices.

Berger discloses an adjustable clamping structure (Figure 10) for mounting a supplemental seat (20) to a bicycle. The clamping device comprises a forwardly open yoke (41) with arms (44) and a curved clamp bracket (42) having opposite ends, fasteners (51) secure said opposite end to the arms (44) of said yoke (41) and at least one curved spacer member (54) located between said bracket (42) and said yoke (41)

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to substitute the clamping arrangement (39) taught by Berger for the fasteners (26) and (64) disclosed by Reminger. Such a modification would provide more secure attachment that is not inadvertently dislodged. Furthermore, all of the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

3. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being anticipated by Reminger (4,305,532) in view of Berger (3,902,737) in further view of Jefferson (5,104,188).

Reminger, as modified, discloses all claimed elements with the exception a child seat which is adjustable along the support and includes a headrest attachment.

Jefferson discloses a child seat with integral footrests (14) and a head support (34) for mounting on a bicycle (28). A releasable fastener (24)(26) allows the seat to be adjusted in position along a tubular support.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to substitute the seat taught by Jefferson for the seat disclosed by Remington. Such a modification would provide a more comfortable and supportive seat device for the seat occupant. Furthermore, all of the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Allowable Subject Matter

4. Claims 2-8 would be allowable if rewritten to overcome the objections set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
5. Claims 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment/Arguments

6. The amendment filed on February 25, 2008 has been considered in its entirety.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Reminger does not teach away from the use of a clamping device. He claims that his device is easy to install because it does not require the use of clamps, however he alludes to the fact that the use of clamps for attachment is common place in the art. The Reminger device, combined with the teachings of Berger, would create a device that is more stable, yet may require more time to install. The fact that it requires increased installation time does not render the combination non-obvious.

Applicant further argues that the combination would require substantially redesign of the Reminger reference. The Examiner contends that clamping elements can be easily added to the forward end of each of the portions (22) and (24) of the elongate support member. Substantially redesign would not be required. Applicant argues that the location of the clamp would not be adjustable. While the combination would not create a clamp with an adjustable location, each of the clamp members would

be adjustable with respect to each other given that they are mounted on portions (22) and (24) which are telescopically adjustable with respect to each other. Applicant further argues that even if the combination were permissible, it still lacks a showing of forward and rearward clamping structures. The Examiner contends that Berger discloses a clamping structure for attaching a seat to a post member of a bicycle. Using such a clamping structure at a steering post attachment location and a seat post attachment location would have been obvious to one of ordinary skill in the art. The arguments with respect to Nauman are moot in view of the new grounds of rejection for claims 15 and 17-19 set forth above.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Primary Examiner
Art Unit 3636

SBM
May 8, 2008